

## **SPOUSAL SUPPORT**

The court must consider **all** of the following factors in determining spousal support (California Family Code, section 4320):

### **EARNING CAPACITY/MARITAL STANDARD OF LIVING**

Extent of earning capacity of each party to maintain marital the marital standard of living considering all of the following:

- Marketable skills of the supported party
- Job market for those skills
- Time and expense required for supported party education/training to develop skills
- Possible need for retraining or education to acquire more marketable skills or employment
- Extent that supported party's present or future earning capacity was impaired by periods of unemployment during the marriage devoted to domestic duties

### **CONTRIBUTIONS TO SUPPORTING SPOUSE**

Extent supported party contributed to the education, training, career, or license of the supporting party

### **ABILITY TO PAY/EARNING CAPACITY**

Ability of the supporting party to pay spousal support, considering supporting party's earning capacity, earned and unearned income, assets, and standard of living

### **NEEDS OF EACH PARTY/MARITAL STANDARD OF LIVING**

Needs of each party based upon the marital standard of living

### **OBLIGATIONS AND ASSETS**

Obligations and assets, including the separate property of each

### **DURATION OF MARRIAGE**

The duration of marriage is generally from the date of the marriage to the date of the separation. Both spouses may not agree on these dates. The court may consider the periods of separation during the marriage in deciding if the marriage is of long duration (usually 10 years or more).

### **GAINFUL EMPLOYMENT/INTERESTS OF CHILDREN**

The ability of supported party to work without unduly interfering with the interests of the dependent children in the custody of that party

**AGE AND HEALTH**

The age and health of the parties

**HISTORY OF DOMESTIC VIOLENCE**

Documented evidence of any history of domestic violence between the parties, including any emotional distress and consequences of such violence against the supporting spouse by the supported party

**CONVICTION OF DOMESTIC VIOLENCE**

Rebuttable presumption against spousal support award to an abusive spouse convicted of domestic violence (California Family Code sections 4050 – 4076)

**TAX CONSEQUENCES**

Immediate and specific tax consequences to each party

**BALANCE OF HARDSHIPS**

Balance of hardships to each party

**GOAL OF BECOMING SELF-SUPPORTING**

The goal that the supported party will be self-supporting within a “reasonable period of time.”

- Except in marriages of long duration (10 years or more, or as determined by the court as described in California Family Code, section 4336), a “reasonable period of time” to be self-supporting may be one-half the length of the marriage or as determined by the court.

**JUST AND EQUITABLE**

Any other factors the court determines are just and equitable

Upon dissolution or legal separation, a court may order a vocational examination to assess the marketable skills, employment history, and current availability of employment opportunities. The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education. (California Family Code section 4331)

There is a rebuttable presumption of less need for spousal support if the supported party is cohabiting with a person of the opposite sex. (California Family Code, sections 4323)

The court may order the supporting party to give reasonable security for payment of spousal support. (California Family Code, section 4339)

For additional information, see California Family Code, sections 4300-4360).

Spousal support is a difficult legal issue. See a lawyer or a family law facilitator in your county. They can tell you about how much spousal support may be ordered, how long it may last, and how it might affect your taxes.